

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	4:08CR3061
)	
v.)	
)	
RETHA HUDKINS,)	MEMORANDUM AND ORDER
)	
Defendant.)	
)	

Defendant has filed a number of motions which alternatively seek discovery, depositions, or other relief. I have reviewed the motions and the briefs of the parties, and make the rulings that appear below.

Generally while a defendant is entitled to the substance of her own statements made to a person then known by the defendant to be an agent for the government, FRCrimP 16(a)(1)(A), she is not entitled to a witness's notes of a conversation he had with the defendant until after the witness has testified on direct examination. FRCrimP 26.2(a). [18 U.S.C. 3500\(a\)](#). I shall order the government to preserve all such materials that may be covered under the disclosure requirements of the Jencks Act, but there is no authority for ordering such disclosure at this time.

Regarding the defendant's motions for issuance of subpoenas duces tecum, and the government's cross motion to quash subpoenas, FRCrimP 17 allows such subpoenas only in limited circumstances which the defendant has not shown to exist in this case. In addition, the local rules of this court require an affidavit supporting such requests which establishes that the documents sought are not otherwise available, that the defendant cannot properly prepare for trial without them, the failure to

provide the documents prior to trial may unreasonably delay the proceeding, and that the application is made in good faith and not for general discovery. NECrimR 17.2(b). The affidavits in support of these motions are conclusory and do not establish even the potential materiality of the documents sought by the subpoenas. While it may be possible that narrower requests might be supportable, these requests are not established to be enforced by subpoena.

Upon consideration of pending motions,

IT THEREFORE HEREBY IS ORDERED:

1. Defendant's motion for production of witness notes, filing [20](#), is denied.
2. Defendant's motions for issuance of subpoenas duces tecum, filing nos. [21](#), [22](#), [23](#), [24](#), [25](#), and [26](#) are denied.
3. Plaintiff's motion to quash, filing [35](#), is granted.
4. Defendant's "objection" filing [43](#), is stricken and has been considered as a brief.

DATED this 17th day of October, 2008.

BY THE COURT:

s/ *David L. Piester*

David L. Piester
United States Magistrate Judge